

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY
V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: 2004158375

REGULATORY PROJECT MANAGER: Rebecca Gruber **Date:** October 13, 2004

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** N **Date:**

At the project site (Y/N) N **Date:** 10/13/2004

PROJECT LOCATION INFORMATION:

State: Wisconsin

County: Milwaukee County

Center coordinates of site by latitude & longitude coordinates: 42.8887°N, 88.0382°W (NAD 27)

Approximate size of site/property (including uplands) in acres: 56 acres

Name or waterway of watershed:

Type of Aquatic Resource ¹ :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands		2 basin							
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary Or Approved **X**

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

Two wetlands (W-1 and W-2) are emergent wet meadows (wetland 1 also has a shrub-carr transition zone). W-1 is dominated by reed canary grass, giant goldenrod, and sandbar willow; W-2 is dominated by giant goldenrod.

The two wetlands lie entirely within the SW ¼ of Section 25, T. 5N., R. 21E., Milwaukee County, Wisconsin. As such, the wetland boundaries lie entirely within the State of Wisconsin. In addition, the wetlands do not display any connection to, nor are they considered adjacent to, any “waters of the U.S.” The Root River (a navigable water of the United States) lies just over 1 mile to the southwest of the site. However, the two wetlands are separated from this river by a large expanse of upland. For these reasons, W-1 and W-2 are considered intrastate, isolated wetlands.

The two wetlands are not, nor are they likely to be, used by interstate or foreign travelers for recreation, industry, or commerce. The wetlands lie on private property, with no public access. Lastly, the wetlands do not contain fish or shellfish which could be taken and sold. For these reasons, no interstate commerce nexus to these three wetlands has been established.